

REMARKS

In response to the restriction requirement between the claims of Group I, claims 1-29, and Group II, claims 30-36, Applicant provisionally elects the claims of Group I, which are drawn to a device for treating plantar fasciitis, with traverse.

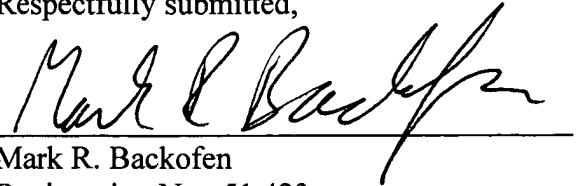
Applicant has amended independent method claim 30 to additionally recite that the boot contains at least one upright and that the method include the step of securing the at least one upright to the leg using a cuff. Support for this amendment can be found, among other places, in paragraph 20 of the specification.

Applicant respectfully traverses the restriction requirement and asserts that the claims, as amended, are not distinct. The examiner based the restriction requirement entirely upon the fact that the method could be practiced with a boot that does not include a cuff or an upright. Independent method claim 30 has been amended to specify that the boot contains at least one upright and a cuff is used to secure the leg to the at least one upright. The remaining method claims all depend from claim 30 and thus also include these additional limitations. None of the method claims, as amended, can be practiced with a boot that does not have a cuff or an upright, thereby overcoming the sole basis for concluding that the device for treating plantar fasciitis of Group I is distinct from the method of treating plantar fasciitis of Group II. Consequently, since there is no basis in the record for finding the two groups to be distinct, the restriction requirement should be withdrawn.

Applicant nevertheless reserves the right to pursue non-elected subject matter in one or more divisional applications if the examiner persists or prevails in the restriction requirement.

The Commissioner is hereby authorized to charge any fee which may be due in connection with this communication to the Locke Liddell & Sapp LLP Deposit Account No. 12-1781.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark R. Backofen", is written over a horizontal line.

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